

Message Text

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ORIGIN EB-11

INFO OCT-01 EA-11 ISO-00 JUSE-00 COME-00 TRSE-00 FTC-01

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DRAFTED BY EB/CBA/BP/GRPOWERS:JB
APPROVED BY EB/CBA/BP - MR. WINTER
JUSTICE - D. ROSENTHAL (SUBS)
EA/J - W. PIEZ (SUBS)

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P 111728Z JUN 74

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

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E.O. 11652, N/A

TAGS: ETRD, US

SUBJECT: ANTITRUST - TOYOTA

REF: (A) STATE 162926, SEPT. 72; (B) TOKYO 9665, SEPT 72

1. EMBASSY WAS INFORMED BY REFTEL A OF JUSTICE DEPARTMENT
ANTITRUST INVESTIGATION OF TOYOTA MOTOR SALES, U.S.A., INC.
AND SEVEN DISTRIBUTORS OF TOYOTA PRODUCTS WHICH WHOLESALE
TO RETAIL DEALERS IN VARIOUS REGIONS OF THE U.S.
REFTEL B INDICATED NOTIFICATION OF GOJ UNDER OECD PRO-
CEDURE HAD BEEN COMPLETED.

2. JUSTICE NOW ADVISES THAT A CIVIL ANTITRUST COMPLAINT
HAS BEEN DRAFTED AND MAY BE FILED IN THE NEAR FUTURE,
PROBABLY BY THE END OF THIS WEEK. THE COMPLAINT WOULD LIST
TOYOTA MOTOR SALES, USA, INC., ITS WHOLLY OWNED WEST
COAST DISTRIBUTOR, AND FIVE OTHER REGIONAL TOYOTA DIS-
TRIBUTORS AS DEFENDANTS. TOYOTA MOTOR SALES, LTD., OF
JAPAN WOULD BE NAMED AS A CO-CONSPIRATOR BUT NOT AS A
DEFENDANT. JUSTICE BELIEVES EVIDENCE IT HAS GATHERED
ESTABLISHES THAT FROM 1969 TO THE PRESENT, TOYOTA SALES

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HAS AGREED WITH ITS DISTRIBUTORS TO FIX AND MAINTAIN RETAIL

PRICES AND TO RESTRICT RETAIL DEALERS TO DESIGNATED MARKET AREAS. THESE RESTRICTIONS ARE ENFORCED THROUGH IMPLIED THREATS OF FRANCHISE CANCELLATION AND IMPLIED UNFAVORABLE

ALLOCATIONS OF AUTOMOBILES. THESE THREATS WOULD REPRESENT VERY STRONG SANCTIONS AS CONSUMER DEMAND FOR TOYOTA AUTOMOBILES FAR EXCEED AVAILABLE SUPPLY DURING LARGE PART OF THIS PERIOD.

3. JUSTICE HAS NOT FILED THE COMPLAINT WHILE IT CONTINUES DISCUSSIONS WITH TOYOTA'S US ATTORNEYS. THE POSSIBILITY REMAINS THAT THE TWO PARTIES WILL REACH AN AGREEMENT PERMITTING THE FILING OF A MUTUALLY AGREED CONSENT DECREE SIMULTANEOUSLY WITH THE COMPLAINT. THIS WAS THE SOLUTION IN SIMILAR COMPLAINT AGAINST NISSAN MOTORS (DATSUN) IN JANUARY 1973.

4. ACTION REQUESTED: THE EMBASSY IS REQUESTED TO NOTIFY FORMALLY THE SECOND INTERNATIONAL ORGANIZATION SECTION, MFA AND THE JAPANESE FAIR TRADE COMMISSION UNDER THE 1967 OECD NOTIFICATION PROCEDURE. ANY REACTION FROM GOJ SHOULD BE CABLED SOONEST. KINOSHITA, DEPARTING COMMERCIAL COUNSELOR AT JAPANESE EMBASSY, WAS ORALLY ADVISED OF MOST OF THE ABOVE INFORMATION DURING HIS FAREWELL CALLS IN THE DEPARTMENT LAST WEEK.

5. FYI: TOYOTA'S US ATTORNEY, HARRY W. CLADOUHOS, VISITED THE DEPARTMENT LAST WEEK REQUESTING STATE INTERVENTION ON BEHALF OF TOYOTA. HE DID NOT DENY THAT RESTRICTIVE ACTIONS TOOK PLACE OR THAT TOYOTA CASE WAS SIMILAR TO NISSAN (DATSUN) CASE AND OTHER AUTOMOBILE DISTRIBUTORSHIP ANTITRUST CASES. HIS ONLY JUSTIFICATION FOR INTERVENTION WAS CLAIMS THAT PRACTICES HAVE BEEN DISCONTINUED, THAT US-JAPAN TRADE RELATIONS NOT VERY GOOD AT PRESENT, AND THAT INTERNATIONAL TRADE CONDITIONS MAKE COMPETITION FOR TOYOTA VERY DIFFICULT. CLADOUHOS WAS INFORMED THAT THESE REASONS NOT LIKELY TO INDUCE STATE INTERVENTION. THE SIMILARITY TO THE DATSUN CASE WAS EMPHASIZED AND IT WAS POINTED OUT THAT THE ANTITRUST ACTION EVENTUALLY WAS DESIGNED TO MAKE TOYOTA MORE COMPETITIVE LIMITED OFFICIAL USE

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IN US MARKET. CLADOUHOS STATED THAT TOYOTA EXECUTIVES AND ATTORNEYS MIGHT MAKE SIMILAR APPROACHES AT HIGH LEVEL IN EA BUREAU AND TO US AMBASSADOR IN TOKYO. SISCO

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